

Amy L. Bennecoff (275805)
Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, PA 19002
Telephone: 215-540-8888
Facsimile: 215-540-8817
abennecoff@creditlaw.com
Attorney for Plaintiff

2014 FEB -3 PM 4:10
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

FILED

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10	ATIKE KING,	) Case No.:	
11		)	SACV 14 - 00150 AG (RNBx)
12	Plaintiff,	)	COMPLAINT FOR DAMAGES
13	v.	)	1. VIOLATION OF THE FAIR
14	GRANT & WEBER, PC.	)	DEBT COLLECTION PRACTICES
15		)	ACT, 15 U.S.C. §1692 ET. SEQ.;
16	Defendant.	)	2. VIOLATION OF THE
17		)	TELEPHONE CONSUMER
18		)	PROTECTION ACT, 47 U.S.C.
19		)	§227 ET. SEQ.
20		)	3. VIOLATION OF THE
21		)	ROSENTHAL FAIR DEBT
22		)	COLLECTION PRACTICES ACT,
23		)	CAL. CIV. CODE §1788 ET. SEQ.
24)	
25		)	JURY TRIAL DEMANDED

COMPLAINT

ATIKE KING ("Plaintiff"), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against GRANT & WEBER, PC ("Defendant"):

INTRODUCTION

1
2 1. Plaintiff's Complaint is based on the Fair Debt Collection Practices
3 Act, 15 U.S.C. §1692 *et seq.* ("FDCPA"), the Telephone Consumer Protection
4 Act, 47 U.S.C. §227 *et seq.* ("TCPA,"), and the Rosenthal Fair Debt Collection
5 Practices Act, cal. Civ. Code §1788, *et. seq.* ("RFDCPA") which prohibits debt
6 collectors from engaging in abusive, deceptive, and unfair practices.
7
8

JURISDICTION AND VENUE

9
10
11 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
12 which states that such actions may be brought and heard before "any appropriate
13 United States district court without regard to the amount in controversy," and 28
14 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
15 under the laws of the United States.
16
17

18
19 3. Defendant conducts business in the State of California and therefore,
20 personal jurisdiction is established.
21

22 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2).
23
24

PARTIES

25
26 5. Plaintiff is a natural person residing in Huntington Beach, California.

27 6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C.
28

1 §1692a(3) and is a “debtor” as defined by Cal. Civ. Code §1788.2(h).

2 7. Defendant is a corporation specializing in debt collection with its
3 principal place of business located at 6575 Agoura Rd, Calabasas, California
4 91302.

6 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C.
7 §1692a(6), and RFDCPA, Cal. Civ. Code §1788.2(c).

9 9. Defendant acted through its agents, employees, officers, members,
10 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
11 representatives, and insurers.
12

14 **FACTUAL ALLEGATIONS**

16 10. At all relevant times, Defendant was attempting to collect an alleged
17 consumer debt from Plaintiff as the term is defined by the FDCPA at 15 U.S.C. §
18 1692a(5) and the RFDCPA at Cal. Civ. Code §1788.2(f).

20 11. The alleged debt originated from a medical bill, and arose out of
21 transactions which were primarily for personal, family, or household purposes.
22

23 12. Beginning in January or February 2013, and continuing through
24 March 2013, Defendant’s representatives placed repeated harassing debt collection
25 calls to Plaintiff’s cellular telephone.
26

27 13. Defendant’s harassing debt collection calls derived from numbers
28

1 (818) 871-7722 and (888) 999-7166. The undersigned has confirmed that these
2 numbers belong to Defendant.

3 14. Defendant regularly called Plaintiff, even after Plaintiff indicated she
4 was disputing the alleged debt.
5

6 15. Once told that the debt was disputed, there was no purpose for
7 subsequent calls by Defendant except for the purposes of harassment.
8

9 16. Defendant also contacted Plaintiff's ex-husband and informed him of
10 the alleged debt.
11

12 17. Upon information and belief, many calls were placed to Plaintiff's
13 cellular phone by a computer autodialer, and with use of a pre-recorded or
14 artificial voice.
15

16 18. Defendant's telephone calls were not for "emergency purposes," as
17 that term is referenced in 47 U.S.C. §227(b)(1)(A).
18

19 19. Finally, on February 21, 2013, Defendant sent a writing to Plaintiff
20 regarding the alleged debt. The writing failed to sufficiently set forth her rights
21 pursuant to the FDCPA.
22

23 20. Further, the writing included attempts to collect additional amounts,
24 including interest.
25

26 21. Defendant's actions as described herein were made with the intent to
27 harass, deceive and coerce payment from Plaintiff.
28

COUNT I
DEFENDANT VIOLATED § 1692c(b) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

22. Section 1692c(b) of the FDCPA prohibits debt collectors from communicating, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

23. Defendant violated § 1692c(b) of the FDCPA when it communicated with Plaintiff's ex-husband regarding Plaintiff's alleged debt.

COUNT II
DEFENDANT VIOLATED § 1692d OF THE
FAIR DEBT COLLECTION PRACTICES ACT

24. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress or abuse any person, in connection with the collection of a debt.

25. Defendant violated § 1692d of the FDCPA when it called Plaintiff repeatedly and continuously, when it continued to call Plaintiff even after she informed Defendant that she disputed the alleged debt and when it engaged in other harassing or abusive conduct.

COUNT III
DEFENDANT VIOLATED § 1692d(5) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

26. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number..

27. Defendant violated § 1692d(5) of the FDCPA when it caused Plaintiff's telephone to ring repeatedly and continuously with the intent to harass or annoy Plaintiff.

COUNT IV
DEFENDANT VIOLATED §§ 1692e, 1692e(2)(A), and 1692e(10) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

28. Section 1692e of the FDCPA prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

29. Section 1692e(2)(A) of the FDCPA prohibits debt collectors from falsely representing the character, amount or legal status of any debt.

30. Section 1692e(10) of the FDCPA prohibits debt collectors from using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

1 31. Defendant violated §§ 1692e, 1692e(2)(A) and 1692e(10) of the
2 FDCPA when it represented that it could collect interest that was not agreed to and
3 when it made other deceptive, false and misleading representations.
4

5
6 **COUNT V**
7 **DEFENDANT VIOLATED § 1692f OF THE**
8 **FAIR DEBT COLLECTION PRACTICES ACT**

9 32. Section 1692f of the FDCPA prohibits debt collectors from using
10 unfair or unconscionable means to collect a debt.
11

12 33. Defendant violated § 1692f of the FDCPA when it called Plaintiff
13 repeatedly and continuously, when it continued to call Plaintiff even after she
14 informed the Defendant she disputed the debt, when it failed to provide Plaintiff
15 with written information sufficiently setting forth her rights pursuant to the
16 FDCPA, attempted to collect additional charges, including interest, and when it
17 engaged in other unfair conduct.
18
19

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21 **COUNT VI**
22 **DEFENDANT VIOLATED § 1692f(1) OF THE**
23 **FAIR DEBT COLLECTION PRACTICES ACT**

24 34. Section 1692f(1) of the FDCPA prohibits debt collectors from
25 collecting any amount (including any interest, fee, charge, or expense incidental to
26 the principal obligation) unless such amount is expressly authorized by the
27
28

1 agreement creating the debt or permitted by law.

2 35. Defendant violated § 1692f(1) of the FDCPA when it attempted to
3 collect additional charges, including interest.
4

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7 **COUNT VII**
8 **DEFENDANT VIOLATED § 1692g(a) OF THE**
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 36. Section 1692g(a) of the FDCPA states that within five days after the
11 initial communication with a consumer in connection with the collection of a debt,
12 a debt collector shall send the consumer a written notice containing the amount of
13 the debt, the name of the creditor to whom the debt is owed, the manner in which
14 to dispute the debt, and that if the debt is disputed, that the debt collector will
15 obtain verification of the debt, and will provide information to Plaintiff on how to
16 dispute the debt.
17

18
19 37. Defendant violated § 1692g(a) of the FDCPA when it failed to
20 provide written notification or any information in writing to Plaintiff in regards to
21 how to dispute the debt or obtain verification of the debt, in violation of the
22 FDCPA.
23
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COUNT VIII
DEFENDANT VIOLATED THE TELEPHONE CONSUMER
PROTECTION ACT

38. Section 227(b)(3)(A) of the TCPA authorizes a private cause of action for a person or entity to bring in an appropriate court of that state “an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation.”

39. Section 227(b)(3)(B), of the Act authorizes a private cause of action for a person or entity to bring in an appropriate court of that state “an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.”

40. Defendant repeatedly placed non-emergency calls to Plaintiff without Plaintiff's consent.

41. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

42. Here, Defendant repeatedly and regularly placed non-emergency, automated calls to Plaintiff using a pre-recorded or artificial voice.

43. Defendant did not have Plaintiff's express consent prior to contacting her using an automatic telephone dialing system or pre-recorded or artificial voice.

1 44. Defendant's conduct violated §227(b)(1)(A)(iii) of the TCPA by
2 making any call using any automatic telephone dialing system or an artificial
3 prerecorded voice to a telephone number assigned to a cellular telephone service.
4

5
6
7 **COUNT IX**
8 **DEFENDANT VIOLATED THE**
9 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

10 45. Section 1788.17 of the California Civil Code mandates that every debt
11 collector attempting to collect a consumer debt shall comply with § 1692b through
12 § 1692j of the FDCPA.
13

14 46. Defendant violated Cal. Civ. Code § 1788.17, when it violated the
15 FDCPA for the reasons set forth in this Complaint.
16

17
18 WHEREFORE, Plaintiff, ATIKE KING, respectfully prays for a judgment
19 as follows:
20

- 21 a. Actual Damages;
22 b. Statutory damages;
23 c. Reasonable attorney's fees and costs;
24 d. Any other relief deemed appropriate by this Honorable Court.
25
26
27
28

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ATIKE KING, demands a jury trial
in this case.

DATED: 1/29/2014

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C..

By: _____

Amy L. Bennecoff (275805)

Kimmel & Silverman, P.C

30 East Butler Pike

Ambler, PA 19002

Telephone: (215) 540-8888

Facsimile (215) 540-8817

Email: abennecoff@creditlaw.com

Attorney for Plaintiff

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Los Angeles, CA

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

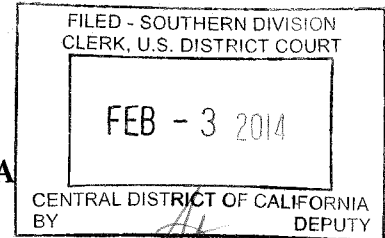
X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date 1/29/2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA



NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Andrew J. Guilford and the assigned Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV 14-00150 AG (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 3, 2014
Date

By D. Vo
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.